

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7534 OF 2023

Balasaheb Chandarrao Temgire
since deceased through his LH & Anr.

....Petitioners

V/S

Alka Dadabhau Parhad & Anr.

....Respondents

...

Mr. Vilas B. Tapkir for the Petitioners.

...

CORAM: SANDEEP V. MARNE, JJ.

DATE : 30 JUNE 2023.

P.C.:

. By this Petition Petitioners challenge order dated 31 March 2023 passed by the Civil Judge Junior Division, Ghodnadi-Shirur by which Application filed by the Plaintiff at Exhibit 64 for sending the sale deed dated 17 October 1985 to handwriting expert for identifying thumb impression of Plaintiff and Defendant No.6 is allowed.

2 The only objection that Mr. Tapkir, learned Counsel appearing for Petitioner would raise to the impugned order is that a similar Application made by the Plaintiff was earlier rejected by the trial Court on 6 March

2019. He would further submit that the order dated 6 March 2019 was unsuccessfully challenged by the Plaintiff before this Court and the Writ Petition was withdrawn on 4 March 2022.

3 Perusal of the order dated 6 March 2019 rejecting earlier Application would show that the same was rejected only on the ground that there was no prayer challenging the sale deed dated 17 October 1985. After rejection of the earlier Application on 6 March 2019 the Plaintiff applied for amendment in the Plaint and subsequently the Plaintiff was permitted to amend the Plaint and include a prayer challenging the sale deed dated 17 October 1985 in the suit. Therefore, the reason for rejection of earlier Application by the trial Court on 6 March 2019 no longer survives. Now there is specific prayer in the suit challenging the sale deed dated 17 October 1985. In that view of the matter, merely because similar Application was earlier rejected on 6 March 2019, the same could not have been a reason for trial Court to reject the Application Exhibit 64 as well.

4 I do not find any merit in the Petition. The Writ Petition is dismissed with no order as to costs.

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by
SUDARSHAN
RAJALINGAM
KATKAM
Date:
2023.06.30
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SANDEEP V. MARNE, J.